

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEN VANDO,	:	CIVIL ACTION
	:	NO. 21-724
Plaintiff	:	
v.	:	
	:	
MICHAEL CLARK, et al.,	:	
	:	
Respondents	:	

ORDER

AND NOW, this **20th** day of **January, 2023**, after careful and independent consideration of the Report and Recommendation of the United States Magistrate Judge Richard Lloret (ECF No. 38) and Petitioner's response thereto (ECF No. 40), it is hereby **ORDERED** as follows:

1. The Report and Recommendation (ECF No. 38) is **ADOPTED** in accordance with the accompanying Memorandum;
2. The Petition for a Writ of Habeas Corpus (ECF Nos. 1, 18) is **GRANTED**, and the Commonwealth of Pennsylvania shall either release or retry Petitioner within 120 days of entry of this Order;¹

¹ In the event that Petitioner is not retried within 120 days, the "release or retry" language above "d[oes] not prohibit the Commonwealth from re-arresting and retrying Petitioner after his release on the original charges, and detaining him pending that retrial, subject to Petitioner's right to a pretrial bail hearing and any other rights of the accused under state and federal law." See *Washington v. Beard*, 258 F. Supp. 3d 512, 517 (E.D. Pa. 2017) (Robreno, J.). Whether Petitioner should be released on bail if the Commonwealth choses to retry him pending trial is an issue for the state court of competent jurisdiction to determine.

and

3. The Clerk of Court shall mark this case **CLOSED**.

AND IT IS SO ORDERED.

Eduardo C. Robreno

EDUARDO C. ROBRENO, J.